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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/893,740	06/29/2001	Matthew T. Doherty	P 0275039 P11034	3331
27496	7590	05/13/2004	EXAMINER	
PILLSBURY WINTHROP LLP 725 S. FIGUEROA STREET SUITE 2800 LOS ANGELES, CA 90017			SIDDIQI, MOHAMMAD A	
			ART UNIT	PAPER NUMBER
			2154	
DATE MAILED: 05/13/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

X

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/893,740	DOHERTY ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Mohammad A Siddiqi	2126	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 29 June 2001.
- 2a) This action is FINAL.                  2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-59 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 19-59 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) 1-18 are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 06/29/01 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. §§ 119 and 120

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 13) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
 a) The translation of the foreign language provisional application has been received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

#### Attachment(s)

- |  |  |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                    | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ . |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)           | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ . | 6) <input type="checkbox"/> Other: _____ .                                   |

**DETAILED ACTION**

1. Claims 1-59 are presented for examination. Claims 1-18 have been restricted.

***Election/Restrictions***

2. Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-18, drawn to loading initialization program,  
classified in class 713, subclass 2
- II. Claims 19-59, drawn to computer network managing,  
classified in class 709, subclass 223

3. The inventions are distinct, each from the other because of the following reasons:

Inventions I, and II are related subcombinations and disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown separately usable. In the instant case, invention I has separate utility such as in a System lacking booting, loading initialization program, particulars. Invention II has separate utility such as in a System lacking management agent,

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has separate utility such as in a System lacking management agent, management server. See MPEP § 806.05(d). Also the restriction requirement is based on the interpretation that every dependent claim is dependent on the preceding independent claim (note Applicant's claim numbering).

4. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because as shown by their different searches and their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

5. During a telephone conversation with Roger R. Wise (# 31204) on December 05, 2003, a provisional election was made without traverse to prosecute the invention of Group II, claim 19-59. Affirmation of this election must be made by applicant in replying to this Office action. Claims 1-18 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

6. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in

compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

8. Claims 19, 22-27, 29-42, 44-51, 53, 55, 56, and 58 rejected under 35 U.S.C. 102(e) as being anticipated by O'Toole et al. (6,345,294) (hereinafter O'Toole).

9. As per claims 19, 29, and 31, O'Toole discloses a method for obtaining service from a management server, comprising:

sending, by a client to a management agent, a request for service from a management server (col 7, lines 40-46);  
forwarding, by the management agent to the management server (col 10, lines 58-62), the request for service via Hypertext Transfer Protocol (HTTP) (col 10, lines 58-62);  
sending, by the management server to the management agent (col 10, lines 58-62), service information via HTTP (col 10, lines 58-62); and  
forwarding, by the management agent to the client, the service information (col 10, lines 58-62).

10. As per claims 22, 26, 37, and 39, O'Toole discloses a method for obtaining service from a management server, comprising:

receiving, by a management agent, a request sent by a client, the request comprising a request for service from a management server (col 7, lines 40-46);

forwarding, by the management agent to a management server (col 10, lines 58-62), the request for service via Hypertext Transfer Protocol (HTTP) (col 10, lines 58-62); and

forwarding, by the management agent to the client, service information sent via HTTP (col 8, lines 52-67) by the management server to the management agent (col 10, lines 58-62).

11. As per claims 23 and 38, O'Toole discloses the management agent comprises a software agent that runs on a client or server (col 3, lines 21-31).

12. As per claim 24, O'Toole discloses wherein the management agent comprises firmware of a networking device (col 6, lines 26-38).

13. As per claims 25, 30, and 36, O'Toole discloses the request comprises a DHCP or a BOOTP request (col 7, lines 39-46)).

14. As per claims 27, 40, 45, and 50, O'Toole discloses the service includes one of installing an operating system or application program and providing diagnostic, upgrade, or system recovery service (col 5, lines 55-57 and col 3, lines 13-20).

15. As per claim 32, O'Toole discloses that management agent runs on the client (col 6, lines 26-53).

16. As per claim 33, O'Toole discloses the client and the management agent communicate in a virtual local area network (VLAN) (col 6, lines 39-65, VLANs allow departments that are dispersed at two or more locations to connect all their users to one

departmental network. This overcomes the constraint that is associated with Local Area Networks (LANs), which can only group together users who are located in the same geographical vicinity, such as a small building or one section of a building).

17. As per claim 34, O'Toole discloses wherein one of a switch and a router physically separates the client and the management server (col 6, lines 54-62).

18. As per claim 35, O'Toole discloses wherein a first virtual local area network (VLAN) includes the client and a second VLAN includes the management server, wherein the first VLAN is distinct from the second VLAN (col 6, lines 39-65 and col8, lines 40-67).

19. As per claims 41, 47, 53, 55, and 58, are rejected for the similar reason as stated in claim 19 above, in addition to, O'Toole discloses querying, by the management server about the client (col 12, lines 14-25), a management database including information about various clients (col 6, lines 21-23); and

sending, by the management server to the client, service information based at least in part on the querying (col 12, lines 14-41).

20. As per claim 42, O'Toole discloses further comprising booting, by the client, to a computer medium containing instructions to connect to the management server (col 7, lines 35-60).

21. As per claim 44, O'Toole discloses taking action, by the client, based at least in part on the service information, the action including: booting to a local storage medium of the client (col 6, lines 26-53); installing an operating system (col 5, lines 40-57) or application program specified by the management server (col 6, lines 26-53); or booting to an operating system retrieved from a network (col 6, lines 26-67), the retrieved operating system being configured to manage the client (col 5, lines 55-64).

22. As per claim 46, O'Toole discloses further comprising formulating, by the management server, a command to convey the service information sent to the client (col 7, lines 39-46).

23. As per claim 48, O'Toole discloses wherein the information in the management database specifies software installed on a client (col 6, lines 20-38).

24. As per claim 49, O'Toole discloses wherein the querying comprises:

determining whether an operating system is to be installed on the client (col 6, lines 55-57); determining whether the client is to boot from a local storage medium of the client (col 6, lines 27-38); and selecting, if the management database does not provide information about the client, a set of default information (col 6, lines 27-53).

25. As per claim 51, O'Toole discloses further comprising recognizing, by the management server (col 39-53), whether the client contains a new hardware or software component (col 3, lines 15-20), the recognizing comprising comparing a current configuration of the client with a configuration of the client stored in the management database (col 3, lines 6-39).

26. As per claim 56, O'Toole discloses The computer-readable medium of claim 55, further comprising entering, by a user into the management database, a type of operating system to be installed on the client (col 5, lines 55-57).

***Claim Rejections - 35 USC § 103***

27. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

28. Claims 20, 21, 28, 43, 52, 54, 57, and 59 are rejected under 35 U.S.C. 103(a) as being unpatentable over O'Toole et al. (6,345,294) (hereinafter O'Toole) in view of Hubacher et al (5,968,126) (hereinafter Hubacher).

29. As per claims 20, 43, 52, 54, 57, and 59, O'Toole is silent about the management server comprises a preexecution boot environment (PXE) server.

However, Hubacher discloses the management server comprises a preexecution boot environment (PXE) server (col 2, lines 55-57).

Therefore, it would have been obvious to one of ordinary skill in the art to include bootstrap and preexecution to O'Toole because it would provide a network appliances that is capable of remote booting, remotely updating configuration of the clients from a central server.

30. As per claims 21 and 28, O'Toole is silent about the wherein the service information comprises bootstrap instructions.

However, Hubacher discloses the service information comprises bootstrap instructions (col 1, lines 54-57).

Therefore, it would have been obvious to one of ordinary skill in the art to include bootstrap and preexecution to O'Toole because it would provide a network appliances that is capable of remote booting, remotely updating configuration of the clients from a central server.

***Conclusion***

31. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

U.S. Patent 5,968,126 to Ekstrom et al.

U.S. Patent 6,601,096 to Lassiter et al.

U.S. Patent 6,684,327 to Anand et al.

U.S. Patent 6,687,245 to Fangman et al.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mohammad A Siddiqi whose telephone number is (703) 305-0353. The examiner can normally be reached on Monday - Friday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John A Follansbee can be reached on (703) 305-8498. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MAS

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